



U.S. Department of Justice

Office of Justice Programs

Office of Communications

Washington, D.C. 20531

To: National Tribal Organizations
Regional Tribal Organizations

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From: Office of Justice Programs
U.S Department of Justice

Re: July 27, 2007 Adam Walsh Act/SORNA Deadline

On July 27, 2006, the President signed into law the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248). Title I of the Adam Walsh Act, entitled the Sex Offender Registration and Notification Act (SORNA), comprehensively revises the national standards for sex offender registration and notification. These standards address such matters as tracking of convicted sex offenders following their release, sharing of information about sex offenders among the jurisdictions in which they live, work, or attend school, and notification of the community concerning the presence of registered sex offenders.

Federal law predating the Adam Walsh Act provided national standards for state sex offender registration programs, however, it made no comparable provision concerning sex offenders who are convicted in tribal courts, or who enter the jurisdiction of a tribe following conviction in some other jurisdiction. As a result, there has been a lack of consistent means for tribal authorities to be notified about sex offenders entering their jurisdictions, to track those offenders, or to make information about those offenders available to members of tribal communities for the protection of themselves and their families.

The Adam Walsh Act seeks to fill this gap by enabling tribes to participate in the national system of sex offender registration and notification programs. Specifics of the law as it affects the tribes is found in Sec. 127 of the Adam Walsh Act and are as follows:

- Non-PL 280 jurisdictions (where the federal government prosecutes major felonies including sex offenses) are given a choice to function as a registration jurisdiction or to delegate sex offender registration and notification functions to the state(s).
- If a tribe elects to function as a registration jurisdiction, it will have essentially the same sex offender registration and notification functions and responsibilities as a state(s).
- Tribes have the freedom to enter into cooperative agreements with a state(s) for pooling

- If a tribe delegates the responsibility to the state(s), then the state will be responsible for registration and notification concerning sex offenders in the tribe's territory.
- Where the tribe delegates the authority to the state(s), federal law grants the state(s) a right of access to the tribe's jurisdiction to implement the law.
- **Tribes have until July 27, 2007, to make an affirmative election to function as a registration jurisdiction, and if no choice is made by that date the responsibility is automatically delegated to the state(s).**
- Tribes also have the option of rescinding a previous election to function as a registration jurisdiction. In this case, the registration function will be delegated to the state(s).
- Also, functions are delegated to the state(s) if the Attorney General determines that a tribe has not substantially implemented the requirements of SORNA and is not likely to become capable of doing so within a reasonable time.
- The election to become a SORNA registration jurisdiction must be made by "resolution or other enactment of the tribal council or comparable governmental body."
- Pursuant to the statute, delegation to the state is automatic if a tribe is subject to the law enforcement jurisdiction of the state under 18 U.S.C. 1162 (P.L. 280).
- Tribes do not have to be fully compliant with SORNA by July 27, 2007. The only requirement for that date is that an election decision be made and communicated to the SMART Office. All registration jurisdictions have until July 27, 2009, to be in full compliance. And, if substantial implementation has been achieved by the registration jurisdiction, the Attorney General may grant up to two one-year extensions on the compliance deadline.

Suggested elements for inclusion in the tribal resolution or other enactment include the following:

- A statement directed to the Attorney General notifying the Department of Justice of the tribe's election decision to function as a registration jurisdiction or to delegate registration and notification authority and function to the state(s).
- A statement that the resolution or other enactment notifying the Department of Justice of the tribe's election decision is being forwarded to the SMART Office.
- If the tribe elects to function as a registration jurisdiction, a statement acknowledging that the tribe accepts responsibility for complying with all SORNA requirements.
- If the tribe elects to function as a registration jurisdiction and anticipates entering cooperative agreements with other jurisdictions to fulfill SORNA requirements, a statement authorizing the tribal chair or other tribal officials to negotiate and enter into a cooperative agreement(s).
- If the tribe elects to delegate registration authority to the state(s), a statement that the tribe will provide cooperation and assistance as may be required to enable the state(s) to comply with SORNA.
- The resolution must be dated prior to July 27, 2007.

The Adam Walsh Act creates a new Office of Sex Offender Sentencing, Monitoring,

The Adam Walsh Act creates a new Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking ("Smart Office") in OJP. I assumed the Director's position in December 2006. The SMART Office's functions include administering the national standards for sex offender registration and notification. I have assigned the responsibility of implementing SORNA and the Adam Walsh Act in Indian Country to Assistant United States Attorney Leslie A. Hagen.

The election to become a SORNA registration jurisdiction must be made "by resolution or other enactment of the tribal council or comparable governmental body." After the tribe makes a decision, it will need to transmit a dated copy of the resolution or enactment memorializing the tribe's decision to Ms. Hagen in the SMART Office. The method of transmission may be US Postal Service or Federal Express as long as it is received by close of business on July 27, 2007. Ms. Hagen's address is Leslie A. Hagen, SMART Office/Office of Justice Programs, U.S. Department of Justice, 810 7th St., NW, Suite 8241, Washington, DC, 20531. Ms. Hagen is available for questions and can be reached via the SMART Office technical assistance email address at GetSMART@ojp.usdoj.gov

The Department of Justice and the Office of Justice Programs are mindful of Executive Order 13175 and wish to engage in meaningful collaboration with tribal officials in the development of federal policy concerning SORNA. Therefore, I would like to draw your attention to a consultation session scheduled for tribal leaders on June 4, 2007, in Shelton, Washington. The Adam Walsh Act is one of the consultation topics for that day. For registration information please see <http://www.fvtc.edu/public/content.aspx?ID=1278&PID=56>